

APPROVED BY DHBC BOARD ON 8-20-2009

BOARD OF HOUSING, BUILDINGS AND CONSTRUCTION
DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION
101 SEA HERO ROAD, SUITE 100
FRANKFORT, KENTUCKY 40601-5405

May 21, 2009
Minutes

Board Members Present:

Richard Moloney, Chair
Ethan Buell
Andrew Coyle
Debra L. Fitzgerald
Tod Allan Griffin
Bill Jagoe, Jr.
David Jansing
Robert R. Johnson
David Jackson
Charles Lewis
Guy Delius
Steve Willinghurst
Alfred Mattingly, Jr.
Craig Newbern
Dennis T. Meiman, Jr.
Jerry Taylor
Tyrone D. Tyra
Dale VanWinkle
G. Davis Boland
Carolyn Skees Franklin

Board Members Absent:

James Martin

Staff Present:

George Mann	Rose Baker
Ken Leathers	Bill Swope
Dawn Bellis	

Guests:

Eric Gregory, Kentucky Distillers Association
Melissa Highfield Smith, GAPS
Cari McGaughey, GAPS
Russ Sanders, NFPA
John Corso, NFSA
Donald Blincoe, Buzick Construction
Tom Blincoe, Buzick Construction

Fred Hagan, Jim Bean Brands
David Kean, Campbell County
Christina Conley, OSBD-GOPM
Bob Weiss, Home Builders Association of Kentucky
Juva Barber, Home Builders Association of Kentucky
Robert Kribs, Florence Fire/EMS
Jeff Bechtold, NKAPC
Brian Sims, NKAPC
Jack Rivel, Irvine
Ron Tabor, Bowling Green

Chair called the meeting to order at approximately 10:00 a.m., roll called and quorum established.

New member, Carolyn Skees Franklin was sworn in by Rose Baker, Staff Assistant.

Chair called for review and approval of the February 19, 2009 minutes (previously distributed). **Motion:** Mr. Buell moved that the minutes be approved as submitted. Motion seconded by Mr. Griffin. **Vote:** Motion passed unanimously.

Old Business: Chair stated that at the last Board meeting he had requested that because of the budget crunch the Board consider staying with the 2006 building codes. **Motion:** Mr. VanWinkle made a motion that the Department stay with the 2006 International Building Code and the 2006 International Residential Code. Motion seconded by Mr. Taylor. **Vote:** Motion passed with eighteen yea votes and one nay vote.

Mr. Mattingly requested that the Department submit to the Board a summary of changes between the current 2006 building codes and the 2009 codes. Chair requested that Mr. Mann work on this issue.

Chair recognized Ms. Dawn Bellis. Ms. Bellis stated that we are at the end of the fiscal year budget. The Plumbing Division is in the red. Cash overrides are being utilized to run the Division. On the litigation front, the Studor Valve case is still in court. Depositions have been taken and the Department is in the middle of settlement negotiations. She will keep the Board apprised of the court's ruling in this case. In regards to the fee sweep case, depositions have been taken. The Agreed Order is in place which the budget director will give notice if they decide to go forward with the fee sweep which was in the budget for this year. This would have to have judicial approval before this would occur. The NFPA 54 and the National Electric Code are before the Administrative Regulation Review Committee scheduled for June 9, 2009.

Mr. Mattingly inquired of the Chair as to who approves the budget for the Department and does it come before this Board. Ms. Bellis responded that the budget did not come before the Board for approval. Mr. Mattingly inquired if there were figures available for Board members and Ms. Bellis responded in the affirmative. She further stated that no drafts could be provided, but that a final budget could be distributed to the Board. Mr. Mattingly

requested that a copy of the final budget be submitted to the full Board for their input and information.

Mr. Mann submitted an amendment for 815 KAR 7:070, the Kentucky Certified Building Inspector Program. He stated that the Department for years had recognized the NCPCCI certification program. NCPCCI will probably disappear in the near future. The amendment would retain the NCPCCI certification, but would add the International Code Council certification program and identifying the specific test that would be administered. Mr. Willinghurst questioned if the Department was having problems with ICC as far as testing and stated the he had received negative feedback on the way they were conducting the testing. Mr. Mann stated that he had not heard of any, but would contact ICC to find out what the problems were. He further stated that most of the candidates are taking the ICC test now. **Motion:** Mr. VanWinkle made a motion to approve the amendment. Motion seconded by Mr. Jansing. **Vote:** Motion passed unanimously.

Chair recognized Juva Barber, Home Builders Association of Kentucky. Ms. Barber presented Code Change No. KBC 07-35 to amend Chapter 11, Section 1106.5, Van Spaces, of the Kentucky Building Code. This amendment came about through Representative Dwight Butler. This amendment will increase the number of van-accessible spaces in large parking lots. **Motion:** Mr. Griffin made a motion to approve the code change. Motion seconded by Mr. Coyle. **Vote:** Motion passed unanimously.

Chair recognized Mr. Fred Hagan and Eric Gregory. Mr. Hagan stated that he was the Senior Engineering Manager with Beam Global Spirits and Wine. He stated that this requested code change was on behalf of the industry and not just a Jim Beam request. He stated that the reason for the request was to simplify the process for the issuance of a building permit. He feels that the current process is a "laborious process" for both the applicant and the Division of Building Code Enforcement. Mr. Hagan related to the Board the operation of a barreled aging warehouse. After the warehouse is built, it is filled over several months to a couple of years depending upon the seasons. Once a warehouse is filled, a barrel stays in the warehouse for at least four years and sometimes up to nine or longer. These warehouses are not occupied on a daily basis. There is no public access or tours in these warehouses. There would be approximately six to eight employees at a time working in these warehouses. Mr. Hagan stated that since these buildings are occupied only on an infrequent basis and not for public access, handrails, guardrails and stairs be required to meet OSHA requirements and be exempt from the Kentucky Building Code.

Chair recognized Mr. Eric Gregory, President of the Kentucky Distillers Association. Mr. Gregory voiced his support of the proposed change and stated that it was an industry effort. Chair called for questions or discussion.

Mr. Mann stated that the Division of Building Code Enforcement is not in serious opposition, but would like to sit down and discuss some of the issues and comment on the proposed change. He requested that he meet with industry representatives to work out some of the concerns regarding their proposed change.

Motion: Mr. Buell made a motion to table the change to allow Mr. Mann to meet with the

industry to work out any issues regarding the code change. Motion seconded by Mr. VanWinkle. Chair called for any further discussion.

Mr. Taylor questioned Mr. Mann as to what he felt regarding the requirement to not have egress illumination or any type of ventilation. Mr. Mann responded that it was his understanding that warehouses are not energized and he is not taking any exception to that. He felt that with the photographs that were provided in code changes in 1999 and 1998 provided good illumination around the perimeter, but it would be limited in the interior. He is also concerned about egress travel and illumination of the egress path in the interior of the building. As infrequently as these buildings are occupied, there would not be a major problem with natural ventilation if the building met natural ventilation requirements. Mr. Taylor stated that if there were a spill there would be alcohol vapors in the air that would have to be gotten out. Mr. Mann stated that he did have some concern with satisfying natural ventilation and egress illumination.

Chair called for a vote on Mr. Buell's motion to table the amendment. **Vote:** Motion passed unanimously.

Chair recognized Mr. Brian Sims, Deputy Director of Building Code Enforcement, NKAPC. Mr. Sims presented code change No. 07-15 to Chapter 1 of the Kentucky Residential Code. Mr. Sims proposed amending this section to add "above grade" to better clarify the code as it relates to townhomes and to make the KRC consistent with the KBC. Mr. Sims added that the Kentucky Single Family Dwelling Advisory Committee had recommended approval of the code change. **Motion:** Mr. Boland moved that the amendment be adopted. Motion seconded by Mr. VanWinkle. **Vote:** Motion passed unanimously.

Chair recognized Mr. Mann to present a code change from Mr. Joe Perry, an inspector with the Franklin-Simpson County Fire Commission. Mr. Perry's concern was the way the code currently reads, you have to obtain a permit for any renovation, electrical, plumbing or HVAC. Mr. Perry states that there was a conflict as far as enforcement. Mr. Perry wants language to be added that "when alterations, repairs, or additions requiring a permit for other than electrical, HVAC, or plumbing work, then the smoke detector issue would come into play. The Single Family Dwelling Advisory Committee reviewed this amendment and suggested an amendment to the code change. Mr. Perry agreed with the change and that change deleted the word electrical in his initial amendment and then added a section number three that states electrical re-wiring that does not involve bedrooms is exempted from the requirements of the section. If work is being done in the bedroom, smoke detectors would have to be installed. Mr. Willinghurst inquired as to what was behind the thinking to strike electrical by the Single Family Advisory Committee. Mr. Mann stated that the reason to delete "electrical" was that if an electrical permit was being pulled to do electrical work in a bedroom, then because this language said other than electrical work, there would be no requirement to put smoke detectors in the bedroom. What the Committee wanted to do was to say if you are doing electrical work in the bedroom you are required to also do the smoke detectors. The only time the smoke detectors would not come into play with an electrical permit is if the work is being done in the kitchen, garage, living room. Any place other than the bedroom. If you are doing work in the bedroom, you will put smoke detectors in the bedroom.

Mr. Jansing inquired of Mr. Mann as to where it stated that if you are doing the work, you have to put one in if one does not exist. For example if you have a fifty year old home with battery operated working smoke detectors in every bedroom, hallways, etc., on every level, where does it say that they would not be exempt or that they would be exempt from having to put in the electric? Mr. Mann inquired if he was speaking about the hardwired part and Mr. Jansing replied in the affirmative. He stated that that would be set out in section number one. An interconnected or hardwired smoke detector in existing areas shall not be required when the alteration or repair does not result in the removal of interior wall or ceiling exposing the structure. Mr. Jagoe stated that interconnected doesn't necessarily mean they have to be hardwired. Mr. Mann stated that he was correct. That the interconnected part that would come into play if the renovation allows them to get in the cavity space to do the work. Otherwise the battery operated smoke detectors can stay in place if the permit was pulled for HVAC or plumbing and could stay in place if the electrical permit was for some place other than the bedroom. There was discussion about the issue that anytime you get a permit now, they are required. There could be situations where you might put them in and not be adding to them. Basically, they are getting rid of smoke detectors in old houses. Mr. Mattingly voiced his concerns of problems in the language of this proposed amendment. It does not make it any safer for the consumer. Mr. Mann stated that the conflict exists when you have one jurisdiction saying "common sense applies" and then another that says "if I give you a permit you have to put smoke detectors in the bedroom". Mr. Mattingly stated that rather than a code change, perhaps use some common sense and issue a directive.

Mr. Mann stated that his (Mr. Sim's) electrical inspectors are concerned with whether or not they are correct if they enforce it or if they don't. What are they suppose to do? Mr. Jansing stated that he had a couple of issues. The present language does not say that the hardwired detector must have a battery backup. He also felt that it would be doing an injustice to those individuals that have bought six or eight fifteen dollar battery operated smoke detectors. Mr. Jansing felt that the issue needs to be looked at. That it should be uniform across the state. It needs to be addressed to allow some common sense to apply for given situations. **Motion:** Mr. Mattingly made a motion that this amendment be turned down and sent back for them to clean up the language to make it more palatable. Mr. Johnson seconded the motion: **Vote:** Motion passed with eighteen yeas and one nay.

Chair recognized Ron Tabor who was representing Cash Olszowy as Mr. Olszowy was unable to attend the meeting. He submitted to the Board a request that they approve continued funding for the educational program for building inspectors. Starting in 2003 they have been able to utilize the money set aside for this educational program to train inspectors.

There is a class coming up this fall in Northern Kentucky. He requested that the Board approve continued funding. He stated that the law had been changed to allow the Board to make the decision regarding funding for this training.

Ms. Fitzgerald inquired as to how much the fund was. Mr. Mann explained the Building Inspector Certification Program and stated that if the Department wished to get into a

training program they were to charge half a cent per square foot on the plan review fees and that half cent would go into the building inspector training fund. The Code Administrator's Association since approximately 2003 had been making a request for reimbursement on the training and education part of the program to offset the training cost.

Mr. Mann stated that basically it was self-funded. The question, again, was how much that amounted to. The response was that it would vary from conference to conference. Mr. Tabor stated that the cost to put on the conference was about twenty-five thousand dollars. Ms. Fitzgerald inquired as to how many people. Mr. Tabor responded that the spring conference was approximately two hundred and fifty to three hundred individuals and that it usually lasted for two and a half days. This did not cover accommodations, just training. Mr. Taylor wanted to know where the funds were coming from since comments had been made that the funds were from permits and also from building and plan review fees. Mr. Mann responded that it was out of the plan and review fees. Mr. Taylor questioned that if this was not approved, then the money in this fund could not be used. Mr. Mann responded that this fund could not be used unless approved for training. Any building inspector in Kentucky can attend.

Mr. Mann stated that the Code Administrators Association of Kentucky, to his knowledge, has put on the training utilizing this fund. This past conference was a hundred and sixty-five dollars: that included two and a half days of training, three meals (Sunday, Monday and Tuesday) and one breakfast on Monday. The meals were included as part of the registration. The instructors, workbooks utilized, audio-visual equipment, everything utilized in the classroom to put the class on was covered through the training program. He believed that former Commissioner Langford, to whom the first request was made, never utilized the fund to cover lodging, meals, anything that was not associated with the actual classroom itself.

Mr. Mattingly addressed the chair and stated that when questioned previously as to what purview they had over the budget and expenditure of funds, the answer was none. Now someone is coming before this Board and asking them to approve the expenditure of funds. He wanted to know if they did or did not have input. Chair responded that he did not think this was a budget issue. It is the Board approving these individuals to continue teaching a class. Not a budget issue. Mr. Mann stated that it was to fund the training program that was coming up in October. Mr. Mattingly stated that if they were asking them to approve the funds, then it would have to be in the budget. Ms. Bellis stated that the funds were already established and they would have no control of what funds go into this. It is provided by statute. There was extensive discussion on how the money got there and where it came from. Mr. Tabor stated that since these funds had been made available that the instructions for building inspectors has gone up tremendously. It is to update them on the current code and there is eight hours of training for two days and four for one day.

Mr. Taylor asked if the Board was approving CAAK to do the training or are they approving release of the funds from that fund to pay them. Ms. Bellis stated they were approving CAAK. Mr. Mann stated that CAAK was already recognized as a provider. Ms. Bellis stated that they were approving this particular program for this fall. Mr. Mann was asked

how many providers were there and he responded that at present, there were only two, the department and code administrators. Mr. Taylor inquired that thirty days prior to this conference, this department, someone here, has to approve the program. Who approves this program? Mr. Mann responded that it would be him. He further stated that it would be the director of Building Code Enforcement. There was further discussion regarding how many training there were in a year and whether there was enough funding for the conferences.

Motion: Mr. Jagoe made a motion to approve the funding request. Motion seconded by Mr. Jackson. **Vote:** Motion passed unanimously.

Chair recognized Mr. Taylor. Mr. Taylor apologized and stated that he didn't remember asking for this information to be put on the agenda. It was sent for informational purposes only. He stated that ICC was currently working on a new green building code project that would be consistent with the codes that were already adopted. He stated that House Bill 2 in the last legislative session approved the new high performance standards for all buildings in Kentucky which have fifty percent or more state funding.

Chair called for a motion to adjourn. **Motion:** Mr. Johnson made a motion to adjourn. Motion seconded by Mr. Mattingly. **Vote:** Motion passed unanimously and the meeting adjourned at approximately 11:15 a.m.

Next meeting: August 20, 2009